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FISCAL IMPACT STATEMENT

LS 6865

BILL NUMBER: HB 1270

NOTE PREPARED: Dec 26, 2008

BILL AMENDED:

SUBJECT: *Ex Parte* Contacts and Bias in Agency Proceedings.

FIRST AUTHOR: Rep. Pelath

BILL STATUS: As Introduced

FIRST SPONSOR:

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: The bill prohibits *ex parte* communications and establishes procedures for removing a hearing officer in adjudications that are exempted from the general law governing administrative adjudications.

Effective Date: Upon passage; July 1, 2009.

Explanation of State Expenditures:

Explanation of State Revenues: *Agencies:* The bill creates two new Class A misdemeanors for violations of the provisions concerning *ex parte* communications: One is for hearing officers and the other applies to individuals aiding, inducing or causing hearing officers to commit violations.

If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class A misdemeanor is \$5,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$18), public defense administration fee (\$3), court administration fee (\$5), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$1) are deposited into the state General Fund.

Utility Regulatory Commission: Additionally, in adjudications by the Utility Regulatory Commission, Commission employees who make findings of fact and conclusions of law may communicate concerning issues of fact or law with any party to the proceeding with notice and the opportunity for all parties to participate. Under current law, a violation is a Class C infraction, but under the bill it would be a Class A misdemeanor.

This bill potentially increases revenue to the Common School Fund, but could reduce revenue that is deposited in the state General Fund. This is because fines from misdemeanors are deposited in the Common School Fund, while infraction judgements are deposited in the state General Fund. Currently, the maximum judgment for a Class C infraction is \$500, which is deposited into the state General Fund, while the maximum fine for a Class A misdemeanor is \$5,000, which is deposited into the Common School Fund.

Besides the issuance of fines, the sentencing court may assess a criminal costs fee if a guilty verdict is entered. The court fee for an infraction is \$70, while the court fee for a misdemeanor is \$120. The state receives 70% of the court fee that is assessed when a guilty verdict is entered and the fee is collected in a court of record and 55% if a case is filed in a city or town court. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$18), public defense administration fee (\$3), court administration fee (\$5), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$1) are deposited into the state General Fund.

Explanation of Local Expenditures: *Agencies:* A Class A misdemeanor is punishable by up to one year in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

Utility Regulatory Commission: Local expenditures could increase if offenders are incarcerated in local jails instead of being only fined. There is no term of imprisonment for an infraction.

Explanation of Local Revenues: *Agencies:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. In addition, several additional fees may be collected at the discretion of the judge and depending upon the particular type of criminal case.

Utility Regulatory Commission: Local governments could receive additional revenues from any court fees that are collected for cases that were infractions and are now misdemeanors.

State Agencies Affected: Agencies responsible for any stage of an adjudication (not including the Governor, state judicial department, state legislative department, or a political subdivision); Utility Regulatory Commission; Department of Correction.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Indiana Sheriffs' Association.

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